

REMARKS

Claims 2-4 have been cancelled. Claim 1 has been amended. Support for this amendment is found throughout the specification, in particular on page 5, lines 8-10, page 10, lines 5-25, and Examples 5 and 6. Newly added Claim 5 finds support on page 5, lines 8-10, page 10, lines 5-25, and Examples 5 and 6.

Rejection of Claim 3 Under 35 U.S.C § 112, First Paragraph

Claim 3 has been cancelled, thus obviating the rejection.

Rejection of Claims 1, 2 and 4 Under 35 U.S.C § 112, First Paragraph

Claims 1, 2 and 4 are rejected under 35 U.S.C. §112, first paragraph, as being broader in scope than their enabling disclosure. Applicants have cancelled Claims 2, 3 and 4 and incorporated receptor binding language in Claim 1 as suggested by the Examiner in the Office Action. As such, Claim 1 has been amended to more particularly claim Applicants' invention. In view of the amendments, Applicants request withdrawal and reconsideration of the rejection.

New Claim 5

Applicants thank the Examiner for suggesting the language that is incorporated into new Claim 5. Claim 5 was not previously presented because Applicants had not fully appreciated the Examiner's reasons for lack of enablement. Claim 5 does not raise any new issues requiring further consideration or searching because the subject matter of the claim more specifically describes Applicants' invention as was previously claimed and examined.

Double Patenting Rejection

Claims 1-4 stand rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over U.S. Patent 6,369,216, U.S. Patent 5,811,542, U.S. 5,783,596 and U.S. Patent 5,322,841. Claims 1-4 were also provisionally rejected over Application No. 11/333,765. Applicants' amended claims are to glucan preparations that consist essentially of a triple helix conformation. Applicants' claims as amended herein are distinct from the cited patents and application.

For example, U.S. Patent No. 6,369,216 and U.S. Application No. 11/333,765 are directed to triple-helix **aggregates** having an average molecular weight of at least 1,000,000 daltons. These applications teach a glucan that is found in triple helix aggregates due to the high molecular weight of the glucan. As shown on page 10, lines 5-16, Applicants' glucan has been prepared to remove high and low molecular weight glucans, such as triple helix aggregates.

U.S. Patent No. 5,322,841 is directed to process claims for producing purified neutral aqueous soluble (1-3) glucan. This patent does not teach a further purified preparation consisting essentially of a triple helix conformation with enhanced glucan receptor binding over single helix conformation.

U.S. Patent No. 5,811,542 is directed to solutions and compositions that have not been further purified to obtain a glucan preparation that consists essentially of a triple helix conformation with enhanced glucan receptor binding over single helix conformation.

In view of the above, reconsideration and withdrawal of the double patenting rejections are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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